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24  
25 **UNITED STATES DISTRICT COURT**  
26  
27 **DISTRICT OF NEVADA**

28 BASIN AND RANGE WATCH,

Plaintiff,

vs.

BUREAU OF LAND MANAGEMENT and  
U.S. DEPARTMENT OF THE INTERIOR,

Defendants.

Case No. 2:16-cv-00403-JCM-PAL

**REQUEST OF PLAINTIFF FOR ORDER  
TO ISSUE NON-STANDARD  
SUMMONSES PURSUANT TO FRCP  
12(a) AND 5 U.S.C. § 552(a)(4)(C)**

**EXPEDITED CONSIDERATION  
REQUESTED**

Plaintiff Basin and Range Watch respectfully requests that the Court order the Office of the District Court Clerk to issue the attached Proposed Summonses in the above-captioned matter. The proposed summonses are attached hereto as Exhibits 1 and 2.

Good cause for this request exists because this action is brought pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(a)(4)(B), which includes a statutory deviation from

1 the otherwise standard timelines for defendants to respond to a complaint pursuant to the Federal  
2 Rules of Civil Procedure. The standard Summons form does not provide the correct time for the  
3 federal defendants in this case to serve a responsive pleading. The standard form provides the  
4 default dates listed in Fed. R. Civ. P. 12(a), namely 21 days, or 60 days if a defendant is the  
5 United States or its agency. However, Fed. R. Civ. P. 12(a) expressly provides that these standard  
6 times apply “[u]nless another time is specified by this rule *or a federal statute.*” (Emphasis added).

7 The federal FOIA statute provides “another time” for filing a responsive pleading as  
8 contemplated by Fed. R. Civ. P. 12(a). Under the FOIA, federal defendants have only 30 days to  
9 answer: “Notwithstanding any other provision of law, *the defendant shall serve an answer or*  
10 *otherwise plead to any complaint made under this subsection within thirty days after service upon*  
11 *the defendant of the pleading in which such complaint is made, unless the court otherwise directs*  
12 *for good cause shown.*” 5 U.S.C. § 552(a)(4)(C) (emphasis added).

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1 Accordingly, use of the form summons in this case is improper because it would indicate  
2 the incorrect time for the federal defendants to serve a responsive pleading under the FOIA statute.  
3 Basin and Range Watch respectfully requests that the Court order the Office of the District Court  
4 Clerk to issue the attached Proposed Summonses that include the 30 day time for Defendants to  
5 serve a responsive pleading.

6 February 26, 2016

Respectfully submitted,

7 **WOLF, RIFKIN, SHAPIRO,**  
8 **SCHULMAN & RABKIN, LLP**

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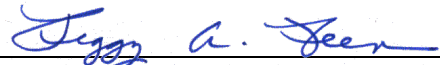
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*Attorneys for Plaintiff Basin and Range Watch*

**IT IS SO ORDERED.**

Dated: March 9, 2016

  
United States Magistrate Judge